

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

K'AUN GREEN,

Plaintiff,

v.

CITY OF SAN JOSE, et al.,

Defendants.

Case No. 22-cv-02174-NC

**ORDER FOR DEFENDANT
MCNAMARA TO SHOW CAUSE
RE DIFFERENCES IN DEFENSE
EXPERT REPORT**

Re: ECF 98, 106

This Court orders McNamara to show cause why the version of defense expert Parris Ward's report submitted with McNamara's summary judgment briefing differs from the version submitted elsewhere in this litigation. McNamara and Green each included a copy of Ward's report in their summary judgment briefing. *See* ECF 98-2, Ex. C; 106-12. Counsel for both parties declared they submitted the true and correct copy. *See* ECF 98-1; 106-24. But the reports submitted by the parties are not the same.

In McNamara's version, the first sentence of the final paragraph on page 5 reads: "As he looks at the officers, his left hand with the gun moves down, such that he is seen holding the gun below waist height, away from his body, with his arm straight." ECF 98-2, Ex. C at 5. In Green's version, the same sentence reads: "As he looked at the officers, he lowered his left hand and the gun to waist level with the muzzle pointing back toward the people in the restaurant." ECF 106-12 at 5. Separately, in the parties' *Daubert* briefing, the language on page 5 of Ward's report matches the version from Green's

1 summary judgment briefing. *See* ECF 99-3 at 5; 104-1, Ex. E at 5. Ward’s conclusions on
2 Page 12 of the reports included with the parties’ summary judgment briefing includes a
3 similar discrepancy. *Compare* ECF 98-2, Ex. C at 12 (“He lowered his left hand and the
4 gun.”) *with* ECF 106-12 at 12 (“He lowered his left hand and the gun to waist level with
5 the muzzle pointing back toward the people in the restaurant.”).

6 This Court orders McNamara to show cause why the Ward report McNamara filed
7 with its summary judgment briefing differs from these other versions. McNamara must
8 respond in writing by Friday, March 1, 2024.

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10 **IT IS SO ORDERED.**

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12 Dated: February 27, 2024

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NATHANAEL M. COUSINS
United States Magistrate Judge